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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,473	04/27/2001	James A. Laugharn Jr.	BMA-005	8156

7590

09/26/2002

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EXAMINER

SOOHOO, TONY GLEN

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 09/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/830,473

Applicant(s)

LAUGHARN JR. ET AL.

Examiner

Tony G Soohoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 25-43, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-23, 25-43, 45 and 46 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows: Applicant is required to choose one species of the invention

- Election*
- I Type of control of a sonic device
Claims 2, 4-7, 17-18, 23, 25, 26, 28-30, 32-33, 35, 39, 43, 45-46.
AND 47
 - II Type of desired result of a sonic device
Claims 3, 31, 37, 38
 - III Type of manner of producing a sonic signal in a sonic device
Claims 8-11, 34,
 - IV Type of holder/container in which a sonic device works upon
Claims 12-16, 19-22, 40-42
 - V Type of material the invention works upon
Claims 36-37

Applicant is required to choose one subspecies of each sub species A-F as follows:

Applicant is required to choose one subspecies A of the desired result:

- Result*
- A1 desired result of heating the sample

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- A2 desired result of cooling the sample
- A3 desired result of fluidizing the sample
- A4 desired result of mixing the sample
- A5 desired result of stirring the sample
- A6 desired result of disrupting the sample
- A7 desired result of increasing permeability of a component of the sample
- A8 desired result of enhancing a reaction within the sample
- A9 desired result of enhancing a reaction within a sample sterilizing the

sample

Applicant is required to choose one species B of the type of control property

- B1 temper true control
- B2 pressure control
- B3 an optical property
- B4 an altered chemical
- B5 an acoustic signal
- B6 a mechanical occurrence

Applicant is required to choose one species C of the type of transducer or sonic energy generation

- Proof*
- C1 at least one or an array of piezoelectric element, piezoelectric pulses
 - C2 an electrohydraulic element, electro-hydraulic shock waves
 - C3 a magnetostrictive element
 - C4 an electro-magnetic transducer, electro-magnetic shock waves

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- C5 a chemical explosive element
- C6 a laser-activated element, laser pulses
- C7 spark discharges across a gap
- C8 an electrohydraulic element, electrical discharges into a liquid

Applicant is required to choose one species D of the type of container

- D1 a membrane pouch
- D2 a thermopolymer well
- D3 a polymeric pouch
- most* D4 a hydrophobic membrane
- D5 a microtiter plate, a microtiter well
- D7 a test tube
- D8 a centrifuge tube, a microfuge tube,
- D9 an ampoule. a capsule
- D10 a bottle, a beaker, a flask
- D11 a capillary tube

Applicant is required to choose one species E of the type of treatment

- E1 in vitro treatment
- most* E2 ex vivo treatment

Applicant is required to choose one species F of the type of sonic energy alteration

- F1 wave form
- F2 duration of application

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F3 intensity

F4 duty cycle

Applicant is required, in reply to this action, to elect a single species in each grouping A-F to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner:

I Type of control of a sonic device

Claims 2, 4-7, 17-18, 23, 25-26, 28-30, 32-33, 35, 39, 43, 45-46.

II Type of desired result of a sonic device

Claims 3, 31, 37, 38

III Type of manner of producing a sonic signal in a sonic device

Claims 8-11, 34,

IV Type of holder/container in which a sonic device works upon

Claims 12-16, 19-22, 40-42

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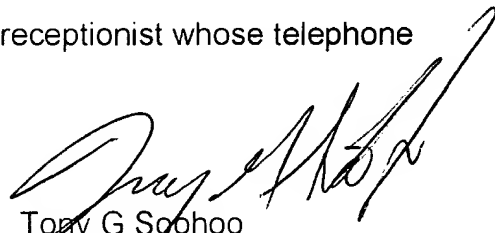
V Type of material the invention works upon

Claims 36-37

The following claim(s) are generic: claims 1 and 27.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the species have different technical features to the type of monitoring, control, energy generation process, and materials.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G Soohoo whose telephone number is (703) 308-2882. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri.. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Tony G Soohoo
Primary Examiner
Art Unit 1723

tgs